

TTAB

PATRICIA GREEN BUDWIG, Registrant/Defendant
STARSHINE THEATER
8540 GEORGETOWN PIKE
MCLEAN, VA 22102
UNITED STATES
Registration No. 2147129, Issued: March 3, 1998
Mark/Words original design:
First Use/Designed by Owner: Aug. 1, 1994
First Use in Commerce: January 1, 1995
First Application to Register Trademark: May 1, 1996

Re-Mailing: May 3, 2011, via EXPRESS MAIL

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD
P.O. BOX 1451
ALEXANDRIA, VA 22313-1451
✓ ATTN: ANN LINNEHANN, INTERLOCUTORY ATTORNEY

Education Resources, LLC, Petitioner/Plaintiff
Cancellation No. 92053802

v.

Patricia Green Budwig, Registrant/Defendant
Registration No. 2147129, Serial No. 75153257

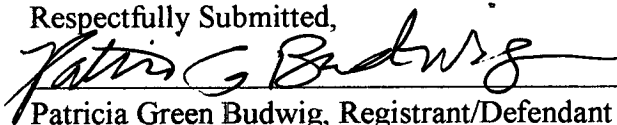
SYLVIA MULHOLLAND
LAW OFFICE OF SYLVIA MULHOLLAND
5405 WILSHIRE BLVD SUITE 220
LOS ANGELES, CA 90036, U.S.

RE: MY "ANSWER" SENT TO PETITIONER MULHOLLAND, VIA CERTIFIED MAIL ON APRIL 26, 2011,
USPS TRACKING # 7010 1870 0001 7273 5681 (Search Results attached).

Dear Ms. Linnehann:

After checking the www.USPS.com website many times since I mailed my April 26, 2011 "ANSWER" to your office and to the office of Sylvia Mulholland in Los Angeles, it has become apparent that the Los Angeles postal service is having difficulty delivering my Certified "ANSWER" to Ms. Mulholland's office. Meanwhile, my ANSWER is correctly posted on the USPTO website, except that, 1) my "ANSWER" was sent Certified rather than Registered mail to both parties, and 2), the second page of Petitioner's 3/23/11 letter was apparently not scanned. To rectify this difficulty of mail service to Ms. Mulholland's office, I have filed a case # with the USPS and they are investigating their lack of delivery. Meanwhile, in another attempt to serve Ms. Mulholland with a paper version of my answer, I am re-sending the entire contents via Overnight Express Mail, since my answer is due on 5/5/11. I have also spoken with Tina Craven in your office today, and she has supported my idea to also send a copy of my "ANSWER" to: Education Resources, 2801 N. 31st Street, Phoenix, AZ, 85008, to which I am also sending via Express Mail today.

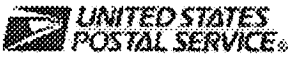
Respectfully Submitted,



Patricia Green Budwig, Registrant/Defendant
PATRICIA GREEN BUDWIG, Registrant/Defendant



05-03-2011

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Track & Confirm

Search Results

Label/Receipt Number: 7010 1870 0001 7273 5681
Expected Delivery Date: April 29, 2011
Class: **First-Class Mail®**
Service(s): **Certified Mail™**
Status: **Processed through Sort Facility**

Track & Confirm

Enter Label/Receipt Number.

Go >

→ Your item was processed through and left our LOS ANGELES, CA 90052 facility on May 03, 2011 at 2:25 am. The item is currently in transit to the destination. Information, if available, is updated periodically throughout the day. Please check again later.

Detailed Results:

- * Processed through Sort Facility, May 03, 2011, 2:25 am, LOS ANGELES, CA 90052
- * Processed through Sort Facility, April 29, 2011, 2:12 am, LOS ANGELES, CA 90052
- * Processed through Sort Facility, April 26, 2011, 8:36 pm, MERRIFIELD, VA 22081
- * Acceptance, April 26, 2011, 10:57 am, MC LEAN, VA 22102

Notification Options

Track & Confirm by email

Get current event information or updates for your item sent to you or others by email.

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No FEAR Act EEO Data

FOIA

SENDER:

PATRICIA Budwig
Starshine Theater
8540 GEORGETOWN PIKE
MCLEAN, VA. 22102

I certify that I mailed my "Answer"
w/ supporting documents (now viewable on
TTAB site) to: Sylvia Mulholland (Atty)
Law office of Sylvia Mulholland
5405 Wilshire Blvd, Suite 220
Los Angeles, CA. 90036
via certified mail, on April 26, 2011.

<http://trkcnfrm1.smi.usps.com/PTSIInternetWeb/InterLabelInquiry.do>

5/3/2011

Patricia Budwig



PATRICIA GREEN BUDWIG, Registrant/Defendant
STARSHINE THEATER
8540 GEORGETOWN PIKE
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ATTN: ANN LINNEHANN, INTERLOCUTORY ATTORNEY
Via USPS Registered Mail

Education Resources, LLC, Petitioner/Plaintiff
Cancellation No. 92053802

v.

Patricia Green Budwig, Registrant/Defendant
Registration No. 2147129, Serial No. 75153257

SYLVIA MULHOLLAND
LAW OFFICE OF SYLVIA MULHOLLAND
5405 WILSHIRE BLVD SUITE 220
LOS ANGELES, CA 90036, U.S.
Via USPS Registered Mail

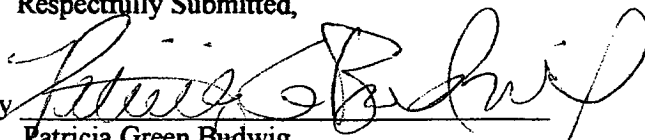
COVER LETTER TO 'ANSWER'

Dear Ms. Linnehann:

Thank you for returning my phone call this morning. As discussed, I will mail this ANSWER to you and to Ms. Mulholland/Petitioner today. I was hoping to reach some kind of agreement by phone with the Petitioner's party before the May 5th deadline of "Time to Answer," but I have just been called out of town on an urgent family matter, so I will send this information in hopes of helping expedite some kind of accelerated agreement during the Discovery Conference time frame. I am glad to hear that responding with this "Answer" will not represent or facilitate a negative action toward my registered STARSHINE trademark.

Thanks very much for your assistance in this important facet of my life's work.

Respectfully Submitted,

By 
Patricia Green Budwig
STARSHINE Theater Registration #2147129

Enclosures: STARSHINE's Answer Letter
STARSHINE's Informational Exhibits A, B and C
A copy of Petitioner's Cancellation request #92053802, for ease of reference

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PATRICIA GREEN BUDWIG, Registrant/Defendant
STARSHINE THEATER
8540 GEORGETOWN PIKE
MCLEAN, VA 22102
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ATTN: ANN LINNEHANN, INTERLOCUTORY ATTORNEY
Via USPS Certified Mail

Education Resources, LLC, Petitioner/Plaintiff
Cancellation No. 92053802

v.

Patricia Green Budwig, Registrant/Defendant
Registration No. 2147129, Serial No. 75153257

SYLVIA MULHOLLAND
LAW OFFICE OF SYLVIA MULHOLLAND
5405 WILSHIRE BLVD SUITE 220
LOS ANGELES, CA 90036, U.S.
Via USPS Certified Mail

ANSWER

By STARSHINE Registrant/Defendant/Applicant, to Cancellation No. 92053802, Due by 5/5/11

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

I am in receipt of a petition to cancel my above-identified Registration. In the interests of time and of reaching an amicable agreement, while keeping my desired STARSHINE mark/words intact, in this response I will give a brief history of my mark, then I will outline my five brief ANSWERS according to the five "Grounds for Cancellation" noted in the "Petitioner's" letter of March 23, 2011. For ease of reference, a copy of the Petitioner's 3/23 letter is enclosed.

Continued...

Also enclosed are examples of my **Questions or Topics of Concern ("Exhibit A")**, that would need to be addressed before I could wisely consent to a possible agreement regarding any form of co-usage of my mark. Simply, I wish to uphold the original intent of my Trademark, that is, to prevent confusion from occurring in commerce.

Also attached is a short summary of **Some Current or Recent Activities of STARSHINE in Commerce ("Exhibit B")**. Specimens of photos, news articles, course brochures, events and performance notices, etc., detailing some of STARSHINE's recent activities, can also be viewed on my Trademark's Registration pages at www.uspto.gov.

My mark and words have been in continuous use in Commerce since 1995, and are still in use in commerce. For one year, March 1998 to February 1999, I agreed to separate the words, "Star" and "Shine" on my mark so that the other "Starshine" trademark owner in class 41 (Reg. #1705969) would consent to my co-usage. Since their mark was abandoned in February of 1999, I use my STARSHINE word and mark as one word rather than two; this identifying feature has become essential since the advent of the Internet, which occurred after I designed my mark. According to instruction from USPTO agents during my inquiries for many years, my ability to use the one word or two, interchangeably, has been based upon my STARSHINE or STAR SHINE being the only mark/words registered in Class 41. My ability to use STARSHINE as one word has been further confirmed by Trademark Attorney Warren L. Olandria's refusal to register another 'Class 41 Starshine' application, Ser. # 77866361, on 1/17/11. Nevertheless, I have recently submitted a Section 7 Amendment to ensure that the one word, STARSHINE, remains intact as my mark.

ANSWER: ("Applicant" refers to myself, Patricia Budwig, and my mark, STARSHINE Theater):

ANSWER to #1: Applicant not with sufficient knowledge to Admit or Deny.

ANSWER to #2: Admit. Applicant's home office/Trademark Registration address continues to be: 8540 Georgetown Pike, McLean, VA, 22102. Student Correspondence, Course Brochures, Class Preparations, Script and Music Research/Composition, and Recorded Musical Soundtrack Engineering is done at this location. STARSHINE also uses an additional mailing address for business transactions: P.O. Box 835, Great Falls, VA 22066. STARSHINE/Applicant instructs a variety of ages and workshop subjects, and also directs, facilitates and performs in numerous events, in a number of locations, some of which are listed and enclosed in "Exhibit B".

Continued...

ANSWER to #3: Applicant not with sufficient knowledge to Admit or Deny that Petitioner will be "damaged."

Applicant is grateful to the USPTO Examining Attorney for acknowledging the similarity of our marks in Class 41, as applicant wishes to continue successful, non-confusing, incontestable use of its STARSHINE mark in commerce.

ANSWER to #4: Deny. Please refer to applicant's specimens at www.uspto.gov.

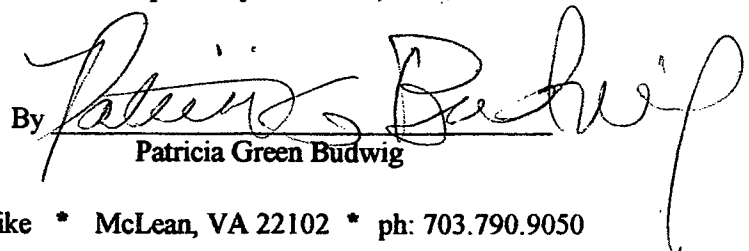
Also, a great deal of information is obtainable on the Internet search engines ('google,' 'bing,' etc.) by typing:

Pat Budwig, Starshine Theater, or Music in our Hearts. Printed and enclosed is **A short list of internet 'search' entries (Exhibit "C")**, which represent dozens of similar entries accessible on the web. Additionally, our websites immediately connect a person with applicant's e-mail so schools, organizations, or parents of prospective STARSHINE students may speak with Ms. Budwig personally, and receive better placement in the correct class, workshop or performance role suitable for their child's age, abilities and scheduling needs. I have also been a children's entertainer for 30+ years, so my name and STARSHINE are considered synonymous by many families, schools and communities.

ANSWER to Grounds #5: Deny. Per the examples referenced herein, and I am available to respond further as needed.

Dated: April 26, 2011

Respectfully submitted,

By 
Patricia Green Budwig

STARSHINE Theater * 8540 Georgetown Pike * McLean, VA 22102 * ph: 703.790.9050

www.StarshineTheater.com www.StarshineTheater.org www.StarshineTheaterCamp.com

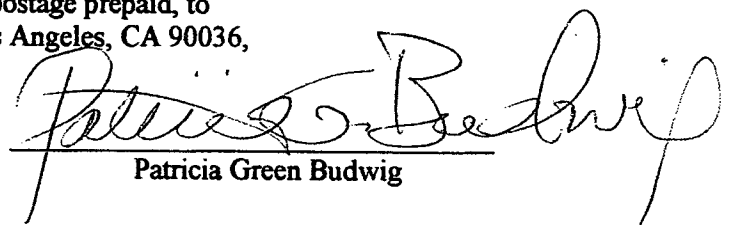
email: Pat@StarshineTheater.com Pat@StarshineTheater.org StarshineTheater@aol.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing ANSWER to Cancellation Petition, with supporting enclosed documents (Including Exhibits A,B and C) was served upon:

- The Commissioner of Patents and Trademarks by mailing the same via First Class Registered Mail, postage prepaid, to P.O. Box 1451 Alexandria, VA 22313-1451, attn: Ann Linnehann, Interlocutory Attorney, and
- Petitioner by mailing the same via First Class Registered Mail, postage prepaid, to Sylvia Mulholland, at 5405 Wilshire Blvd. Suite 220, Los Angeles, CA 90036,

on this 26 day of April, 2011.


Patricia Green Budwig

Enclosures: Exhibits A, B, and C.

EXHIBIT A: Examples of STARSHINE/Applicant's Questions or Topics of Concern

1. If Applicant, STARSHINE Theater, were to consent to a co-usage of another 'Starshine' mark in Class 41, what would be the possible future negative ramifications or damages to the registered, 'Senior' STARSHINE ?
2. How would the geographic logistics be worked out, to ensure continued non-confusion of marks in commerce? For example, students attend STARSHINE Theater's summer camps from various parts of the U.S., even from other parts of the world. Moreover, Ms. Budwig is in the process of submitting original STARSHINE works for publication, with agencies in various locations, including New York and California.
3. On a related note, how would future confusion be avoided on the Internet? It should here be noted that, to avoid confusion in commerce (which did already occur), and because these organizations infringed upon STARSHINE's prior trademark rights, Ms. Budwig has already succeeded in having two different organizations "Cease and Desist" from using the following names as their website domain or business: "www.StarshineTheaterCamp.com" which transferred its website domain name to STARSHINE THEATER in August of 2006, and "Starshine Productions" which discontinued use of their name in August of 2010, at Ms. Budwig's request. Both were located outside of D.C./Virginia/MD states.
4. What would be the procedure if yet another attempt to register a Class 41 'Starshine' occurs? For example, would both existing "Starshines" in Class 41 have equal say in whether to consent, or would the original, "Senior" STARSHINE Theater trademark owner have more decision weight over the "Junior" ? How many "Starshines" in Class 41 could co-exist before the original meaning of the mark becomes too diluted to recognize?
5. Ms. Budwig received a phone message from a Trish McCarty in November, 2010; Ms. McCarty stated she was thinking of expanding a 'Starshine Academy' curriculum to include more Drama programs, which seems to pose a potential confusion with our currently registered STARSHINE Theater programs. How would this be reconciled?

Respectfully Submitted,

By

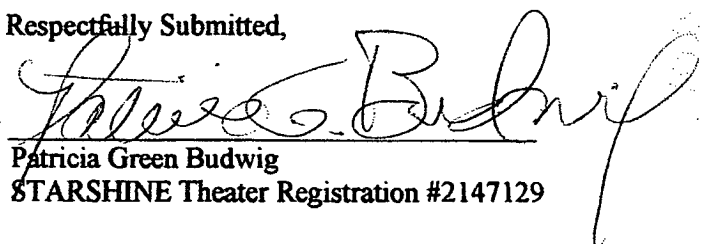

Patricia Green Budwig
STARSHINE Theater Registration #2147129

EXHIBIT B: Some Current or Recent Activities of STARSHINE in Commerce

1. STARSHINE THEATER's original video, 'MUSIC IN OUR HEARTS,' authored and performed by Pat Budwig teaching early childhood Music and Arts curriculum, was released in 1997 by Vision Video, PA, and is still current.
2. Current or Recent locations of STARSHINE courses, performances and public events in schools, after-school programs, camps, studios, community centers, theater venues, town festivals, parades, etc.:

The School of Theatrical Dance, Great Falls, VA
The Waddell Theater, NoVA College, Sterling, VA
St. Francis Creche School, Great Falls, VA
The Langley School, McLean, VA
The Grange Theater, Great Falls, VA
Great Falls Methodist Preschool, VA
The Connelly School, Potomac, MD
Great Falls Elementary School, VA
Reston Town Parade, VA
Great Falls Day, Main Performance Stage, VA
Great Falls Village Green Day School, VA

3. Current, Recent or Ongoing activities to further publish STARSHINE original works to a wider audience:

Member, ASCAP, American Society of Composers and Publishers, New York, NY
Participant, Musical Theater Writer's Workshops hosted by ASCAP and Stephen Schwartz ("Wicked"), NYC
Participant, "YALE in Hollywood" For Yale Alumni, connecting writers with international Agents and Publishers
Currently submitting STARSHINE plays for publication to agencies in NYC and Los Angeles, CA area
Currently working w/best-selling children's author; STARSHINE's music submitted to major motion picture studio

4. Current or Recent Continuing Education activities; Ms. Budwig continues to enhance STARSHINE curriculum:

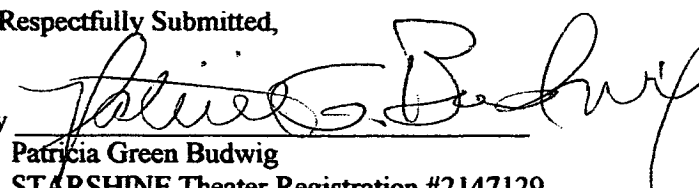
Attendee, YALE Master's Program Alumni Reunions (since 1979), with networking and seminars
Student and Guest Instructor of teachers in Association of Early Childhood Educators
Student of Voice and Dance/Movement at Broadway Dance Center, New York, NY
Student and Guest Instructor at The Levine School of Music, Washington, DC
Volunteer Docent for the "Eiko and Koma" performances, Mikhail Baryshnikov Dance Center, NYC

5. A short sample of STARSHINE original play workshops performed by various student groups, representing approximately 50+ plays composed with the objective of education by student participation, over the past 17 years. Most scripts include an original music CD soundtrack with student vocals recorded onto STARSHINE's music:

"All the World's A Stage - The Life and Times of William Shakespeare" (Elizabethan England curriculum)
"The Life and Times of Leonardo da Vinci" (Renaissance Arts, Sciences and Politics)
"The Life and Times of Galileo Galilei" (Pre-Renaissance Science in Politics and Religion)
"The Life and Times of Diego de la Vega" (El Zorro - History of U.S. West Coastal Native Americans/Mexicans)
"The Odyssey" by Homer, and "Aesop's Fables" (Ancient Greece ~ History, Mythology, Literature)
"The Seven Wonders of the Ancient World" (Students time-travel back to learn of the architectural greats)
"The Honorable History Society Mystery" (Characters come alive from the paintings in the National Gallery)

Respectfully Submitted,

By


Patricia Green Budwig

STARSHINE Theater Registration #2147129

EXHIBIT C:

A short list of current internet 'search' entries for Starshine Theater, Music in our Hearts, Pat Budwig

(This list is a very small sample of many similar entries found on the internet.)

StarshineTheater presents: Performing Arts Camps and Year-Round Workshops for All Ages...
While we expand our website, please contact: Pat@StarshineTheater.com.
www.starshinetheater.com/ - [Cached](#) - [Similar](#)

Music in Our Hearts - video on CastTV Video Search

... episode from **Music in Our Hearts** on Amazon.com (\$12.99) ... many 3-through- 6 year old students often ask **Patricia Budwig, Director of Music** ... to the music in your hearts!"
Tags: createspace, **starshine theater** ...
www.casttv.com/.../music-in-our-hearts-music-in-our-hearts-video - [Cached](#)

School of Theatrical Dance - Great Falls, VA

In 1998 Pat Budwig's Starshine Theater found its new home with us and ...
www.theatricaldance.com/aboutusfaqs.nxg - [Cached](#) - [Similar](#)

Week in Great Falls Feb 10, 2011 ... Meet Patricia Budwig of Starshine Theater,
and learn about performing arts workshops in music, voice and acting for all ages. ...
www.connectionnewspapers.com/article.asp?article=348251... - [Cached](#)

Yale Divinity School-class 79

Patricia Green Budwig '79 M.A.R serves as Creative Director for **Starshine Children's Theater**
in Great Falls, VA. She writes and directs original plays...
www.yale.edu › [YDS Home](#) › [Alumni](#) › [Class Notes](#) - [Cached](#) - [Similar](#)

FCPSdrama.com Apr 15, 2010 ... Info: Patricia Budwig, M.A., Play Director,
703.790.9050 or StarshineTheater@aol.com

STARSHINE THEATER TM is enrolling student actors for its 17th annual Summer ...
www.fcpsdrama.com/ - [Cached](#) - [Similar](#) [Show more results from fcpsdrama.com](#)

Starshine Theater - My Neighbors Network, A Resource for your home

Pat Budwig, M.A. has been teaching Voice in the GF area for 20 years.
She also directs the "**Starshine Theater**" musical productions, which include a ...
www.myneighborsnetwork.com/index.cfm?...id... - [Cached](#)

Great Falls Oct 14, 2010 ... **Starshine Theater** of Great Falls presents "How to Audition for a Stage Show"
for ages 6 through 18 years. Instructor: **Patricia Budwig** ...
connectionarchives.com/PDF/2010/100610/Great%20Falls.pdf

STARSHINE THEATER! MUSIC IN OUR HEARTS - Trademark by Budwig ...

This trademark is owned by **Budwig, Patricia Green, McLean, VA 22102**.
The USPTO has given the **STARSHINE THEATER! MUSIC IN OUR HEARTS** trademark serial number ...
www.trademarkia.com › ... › [Education and Entertainment Services](#) - [Cached](#)

Respectfully Submitted,

By


Patricia Green Budwig

STARSHINE Theater Registration #2147129

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Registration No. 2147129
Mark: STAR SHINE THEATER MUSIC IN
OUR HEARTS! & Design

Issued: March 3, 1998

Education Resources, LLC

Petitioner

vs.

Patricia Green Budwig

Registrant

PETITION FOR CANCELLATION

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

Education Resources, LLC ("Petitioner"), having a principal place of business at 2801 N. 31st Street, Phoenix, Arizona 85008, believes that it is damaged by Registration No. 2147129, and hereby petitions to cancel the same under the provisions of 15 U.S.C §1064 (3).

As grounds for cancellation, Petitioner asserts that:

1. Petitioner is an Arizona Limited Liability Company which operates a number of charter schools under the trade name and trademark STARSHINE ACADEMY and under the trademark STARSHINE ACADEMY & Design in the United States and Africa.

2. To the best of Petitioner's knowledge, Patricia Green Budwig ("Registrant") is an individual having a principal place of business at 8540 Georgetown Pike, McLean, VA 22102.

3. Petitioner believes it will be damaged by the STAR SHINE THEATER MUSIC IN OUR HEARTS! & Design registration because Petitioner's trademark application for STARSHINE ACADEMY & Design, as Application No. 77/866361, in International Class 41, for "providing courses of instruction for students at the elementary, middle school levels and high school levels in the fields of mathematics, history, language arts and other subject matters, within charter school levels K-12", has been refused by the USPTO Examining Attorney, on the basis that Petitioner's Mark is confusing with Registrant's STAR SHINE THEATER MUSIC IN OUR HEARTS! & Design Mark.

Basis for cancellation-Abandonment

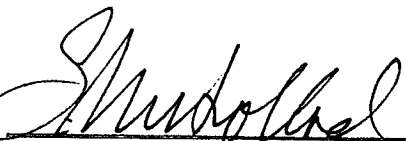
4. Upon information and belief, Registrant is not currently offering educational services or entertainment services under the STAR SHINE THEATER MUSIC IN OUR HEARTS! & Design Mark.

5. Registrant has abandoned the STAR SHINE THEATER MUSIC IN OUR HEARTS! & Design Mark.

WHEREFORE, Petitioner prays that Registration No. 2147129 be canceled pursuant to 15 U.S.C §1064 (3) because the STARSHINE THEATER MUSIC IN OUR HEARTS! & Design Mark has been abandoned by Registrant, Patricia Green Budwig.

Dated: March 23, 2011

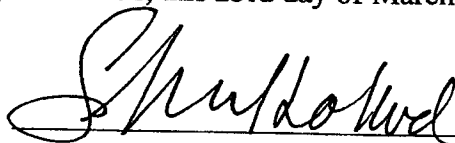
Respectfully submitted,

By 

Sylvia Mulholland
5405 Wilshire Blvd.
Suite # 220
Los Angeles, California, 90036
Tel: (323) 330-9520
Facsimile: (323) 330-9506
Attorney for Petitioner Education
Resources, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation was served upon Registrant by mailing same via First Class Mail, postage prepaid, to Patricia Green Budwig, at 8540 Georgetown Pike, McLean, VA 22102, this 23rd day of March, 2011.



Sylvia Mulholland